

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

STEVEN MCBRIDE,

Plaintiff,

v.

Case No. 3:20-cv-620-TJC-JRK

WALMART INC., DOUG  
MCMILLION, STORE MANAGER  
JOHN, STORE MANAGER JIM,

Defendants.

---

**ORDER**

This cause is before the Court on Plaintiff's Request for Clerk to File a Default Judgment and/or Motion for Court to Issue a Default Judgment (Doc. No. 19; "Motion") and accompanying affidavit (Doc. No. 20), both filed August 9, 2021. In the Motion, Plaintiff seeks the entry of a default judgment on the ground that "Defendants have failed and[/]or refused to either accept the waiver [of service] or show good cause." Motion at 3 (capitalization omitted).<sup>1</sup> Upon review of the Motion, the file, and the applicable law, the Motion is due to be denied for the reasons set forth herein.<sup>2</sup>

Rule 55 provides the requirements for entry of a default judgment. See

---

<sup>1</sup> As the Motion does not contain numbered pages, citations to it are in accordance with the pagination assigned by the Court's electronic filing system (CM/ECF).

<sup>2</sup> The Court is ruling on the Motion without awaiting a response because a response is not necessary to decide the matter.

Fed. R. Civ. P. 55(b). A default judgment may be entered “against a defendant who never appears or answers a complaint, for in such circumstances the case never has been placed at issue.” Solaroll Shade & Shutter Corp. v. Bio-Energy Sys., 803 F.2d 1130, 1134 (11th Cir. 1986). Here, the entry of a default judgment is not appropriate because Defendants are not in default and have appeared in this case. See Fed. R. Civ. P. 55. Further, on October 21, 2020, Defendants filed a motion to dismiss, see Defendants’ Motion to Dismiss Plaintiff’s Complaint (Doc. No. 9), that was granted on July 23, 2021, see Order (Doc. No. 17).<sup>3</sup>

Upon due consideration, it is

**ORDERED:**

Plaintiff’s Request for Clerk to File a Default Judgment and/or Motion for Court to Issue a Default Judgment (Doc. No. 19) is **DENIED**.<sup>4</sup>

**DONE AND ORDERED** in Jacksonville, Florida on August 13, 2021.

  
JAMES R. KLINDT  
United States Magistrate Judge

keh  
Copies to:  
Counsel of Record  
Pro Se Party

---

<sup>3</sup> Pursuant to the July 23, 2021 Order granting Defendants’ motion to dismiss, Plaintiff has until August 27, 2021 to file an Amended Complaint if he so chooses.

<sup>4</sup> “[A] magistrate judge ha[s] authority to deny [a] motion for default judgment.” Franklin v. Parnell, 461 F. App’x 823, 825 n.2 (11th Cir. 2011) (citing 28 U.S.C. § 636(b)(1)(A)); see also Baker v. Warner / Chappell Music, Inc., No. 14-cv-22403, 2015 WL 1534522, at \*1 n.1 (S.D. Fla. Apr. 6, 2015) (unpublished) (finding same) (citations omitted).